

## § 83.10

## 42 CFR Ch. I (10–1–13 Edition)

petitioner(s) would be directly informed of the need for this supplemental information. In such cases, either of the following may qualify as evidence:

(i) Medical evidence that one or more members of the class may have incurred a high level radiation dose from the incident, such as a depressed white blood cell count associated with radiation exposure or the application of chelation therapy; or

(ii) NIOSH will consider evidence provided by affidavit from one or more employees who witnessed the incident. If the petitioner cannot provide such affidavits because such employees are deceased, prevented by reasons of poor health or impairment, or cannot be identified or located, then the requirement for evidence provided by affidavit can be met by providing such an affidavit from one or more individuals who did not witness the incident, provided the individual was directly informed by one or more employees who witnessed the incident.<sup>3</sup>

(4) The provision of any evidence under this section or other provisions

of this part, including one or more affidavits, would not, in and of itself, be sufficient to confirm the facts presented by that evidence. NIOSH will consider the adequacy and credibility of any evidence provided.

(5) If, under § 83.15(a), NIOSH has already issued a FEDERAL REGISTER notice scheduling a Board meeting to consider a petition concerning a class of employees, then any petitions for such a class of employees submitted following this notice must, under paragraph (c)(2) of this section, present substantially new information that has not already been considered by NIOSH. For this purpose, NIOSH would find that information has been already considered by NIOSH if it were included in the petition(s) that were already considered by NIOSH or if it were addressed either in the report(s) by NIOSH evaluating such a petition or petitions under § 83.13(c) or in a proposed decision by NIOSH responding to such a petition or petitions under § 83.16(a).

TABLE 1 FOR § 83.9: SUMMARY OF INFORMATIONAL REQUIREMENTS FOR ALL PETITIONS

[Petitioner(s) must submit identifying and contact information and either A. or B. of this table.]

A. The claimant's authorization of the petition, based on NIOSH having found it could not complete a dose reconstruction for the claimant submitting the petition; or.	B. (1) A proposed class definition identifying: (i) Facility, (ii) relevant locations at the facility; (iii) job titles/duties, (iv) period of employment, and if relevant, (v) exposure incident. (2) The basis for infeasibility of dose reconstruction; either: (i) lack of monitoring; or (ii) destruction, falsification, or loss of records; or (iii) expert report; or (iv) scientific or technical report.
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### § 83.10 If a petition satisfies all relevant requirements under § 83.9, does this mean the class will be added to the Cohort?

Satisfying the informational requirements for a petition does not mean the class will be added to the Cohort. It means the petition will receive a full evaluation by NIOSH, the Board, and

HHS, as described under §§ 83.13 through 83.16. The role of the petitioner(s) is to identify classes of employees that should be considered for addition to the Cohort.

<sup>3</sup>An affidavit may be from a petitioner but HHS does not require that an affidavit be from a petitioner.